

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 24**

INTERNATIONAL SHIPPING AGENCY, INC.  
AND MARINE TERMINAL SERVICES, INC.,  
AND TRUCK TECH SERVICES, INC.

SINGLE EMPLOYER

and

INTERNATIONAL SHIPPING AGENCY, INC.  
AND TRUCK TECH SERVICES, INC.

SINGLE EMPLOYER

and

UNION DE EMPLEADOS DE MUELLES  
(UDEM), ILA 1901, AFL-CIO

Case : 24-CA-091723  
24-CA-104185  
24-CA-129846  
12-CA-133042  
12-CA-135453  
12-CA-135704  
12-CA-136480  
12-CA-142493  
12-CA-143597  
12-CA-144073

**MOTION FOR RESCHEDULING OF TELEPHONIC CONFERENCE TO AN  
EARLIER DATE (JUNE 26, 2015)**

**TO THE ADMINISTRATIVE LAW JUDGE  
HONORABLE ROBERT A. RINGLER:**

**COME NOW** Respondents through their undersigned legal representation and most respectfully **STATE** and **PRAY** as follows:

1. On June 19, 2015, Respondents and the Charging Party filed a Joint Motion requesting a short continuance of the hearing in this case. On June 22, 2015, the Counsel for the General Counsel (CGC) acquiesced to the continuance in light of the particular circumstances of this case. Moreover, after consulting with the parties, CGC informed available dates for the

hearing to which the parties have committed the earliest of which amount simply to a continuance of a little more than two (2) months.

2. On June 24, 2015, Your Honor communicated to the parties his “strong inclination” to deny the request for continuance noting his concerns that another delay of this proceeding will ultimately result in an inferior record. Your Honor, however, hold off on his final ruling until he hears from the parties on the telephonic conference of June 29, 2015.

3. In view of the importance and time-sensitive nature of this issue, Respondents respectfully request that the telephonic conference be rescheduled to an earlier date, preferably Friday June 27, 2015 at the time better suited for Your Honor<sup>1</sup>. Respondents make this request to further explain to Your Honor the need for the continuance, particularly:

**That the continuance is requested precisely to provide for a better and clearer record and to procure a simpler procedure**

The aim of the appearing parties in requesting the continuance is precisely to avoid Your Honor's concerns. In other words, Respondents are requesting the continuance to work on the possible settlement of the allegations and if that fails to enter into stipulations of facts that would eliminate the need to either present witnesses or documentary evidence. **To that end, Respondents and the Charging Party have already established a working schedule**; Local Counsel of the Charging Party and the Respondents' Trial Counsel have separated dates in the weeks of June 29<sup>th</sup> and July 6<sup>th</sup> to meet<sup>2</sup> and first discuss the possibility of settling the allegations or if that fails, discuss and enter stipulations of facts; the Charging Party's Trustee and outside

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1 Respondents conferred about this requests with Charging Party ILA Local 1901. Said Charging Party agreed and joints in the request to reschedule the telephonic conference for June 26, 2015. They wish to file their own motion explaining further their own reasons to request the continuance. As informed, they plan to do so today.

2 The reasons for starting the conversations next week s that Local Counsel for the Charging Party has requested the CGC to allow her to examine the file of the cases given the Union former officers' reluctance to provide the information in order to be prepared for the settlement conversations.

Counsel for the Charging Party are coming to Puerto Rico on the week of July 13 to have face-to-face meeting with representatives of the Respondents (in addition of the counsels) to either deal directly with any pending issues remaining of the meetings between the counsels or to formally execute any needed agreement.

It is unquestionable that even if the best case scenario of settling the entire Complaint is not achieved, the settling of some of the allegations of the Complaint together with a comprehensive stipulation of facts in what is objectively a very complicated case, spanning years, work units and a great number of witnesses and documentary evidence, could only result in a better record and simpler proceedings facilitating the expeditious resolution of whatever controversies remain from this process. *It is important to underscore that although in the MTS Cases a great amount of time was spent in achieving a settlement and there had been discussion regarding stipulations of facts, there had not been any formal attempts to settle the seven additional cases consolidated in this Complaint and no attempts whatsoever to discuss or try to reach stipulations of facts regarding those allegations.*

It is most respectfully submitted that it would be very improbable that the parties will have the time and space necessary to meaningfully engage in this process if they only have two weeks (10 working days) before the start of the Hearing. Instead of concentrating on trying to come to solutions, the parties would need to be preparing for the hearing which in effect would condemn *a priori* the outcome of the conversations.

Moreover, Respondents would not only agree but also welcome intermittent telephonic conferences with Your Honor to inform of the status of there conversations and/or openly discuss problematic hurdles, if any, for guidance.

**That under the circumstances of this case, the short continuance requested would not present a distinct or particular problem of diminishing the quality or availability of the evidence**

Since the parties are only requesting a very short continuance, the request does not present the situation where the additional time would have the effect of diminishing the quality or quantity of the evidence to be presented if the matter or some of the allegations proceed to a hearing. On the contrary. Since there would be a certain date for the hearing if controversies persist, and because the parties would be engaged during the additional time in discussing the possibility of settlement and/or stipulations of facts which necessarily entails revising and discussing the evidence, the quality and quantity of evidence would not only be preserved but also the parties would have a better understanding of it.

In this case, therefore, the possible benefits of the requested continuance to provide for meaningful discussion regarding settlement or achieving stipulations of facts far outweigh the negligent effect, if any, that the continuance would have in the quality or quantity of the evidence.

**The appearing parties preserve the argument that in any case the continuance is needed to provide for a fair opportunity to present their cases and/or defense**

Respondents also wish to preserve the argument that the requested continuance is independently proper in order to provide a fair opportunity to present their case and defense.

In this regards, it must be noted that at the time Respondents agreed last April 30, 2015 to a July 13 hearing date , they did so understanding that only the matters contained in the MTS cases were going to be the subject of the litigation. They did not know, nor were expected to know, that seven additional cases were going to be tried that same day. Should they had known at the time that the additional cases were going to be tried together, Respondents would have

never agreed to a July 13 trial date. Litigating the additional seven Charges entails preparing a defense under additional legal and factual theories, collecting the evidence to support these additional theories, translating the same and securing the appearances of witness. This additional work is required and necessary in order to be prepare for every stage of the trial, from the opening statements, to the cross-examination of the Government's witnesses, up to the presentation of Respondents' case in chief. The little more than three (3) weeks notice afforded to Respondents to start this process while also preparing for the MTS cases is simply not enough to allow for a fair opportunity to present a defense to the Government's case.

4. Respondents are aware of Your Honor's preliminary ruling that "Charging party counsel, and Trustee counsel could each independently present evidence and examine witnesses." Respondents consider that the issue of who participate as a party in the proceedings is a separate matter from the request for continuance. Because the matter of the continuance is time-sensitive, Respondent wish to first address the same without waiving their respective arguments concerning who should participate in the hearing. Accordingly, Respondents reserve their right to present arguments to the effect that granting incumbent status to any entity other than the Charging Party present serious legal questions regarding specific provisions and presumptions of law and due process.

**WHEREFORE** it is respectfully requested that the present Motion be **GRANTED** and in its consequence that the telephonic conference be reschedule to an earlier date preferably June 27, 2015 at a time convenient to Your Honor.

**RESPECTFULLY SUBMITTED.**

I hereby certify that on this same date I have notify a true and exact copy of this document to the General Counsel through Ms. Lilyvette Rodriguez Soto, Esq. at [lilyvette.rodriguez@nlrb.gov](mailto:lilyvette.rodriguez@nlrb.gov) and to the Charging Party c/o John D. Baker, Trustee, through his counsels of record Ms. Elizabeth Alexander, Esq. and Vanessa Marzan, Esq.

In San Juan, Puerto Rico on this 25<sup>th</sup> day of June 2015.

*Attorneys for Respondents*

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